

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CONTINENTAL D.I.A. DIAMOND
PRODUCTS, INC.,

No. C 08-02136 SI

ORDER RE: PROTECTIVE ORDER

Plaintiff,

v.

DONG YOUNG DIAMOND INDUSTRIAL
CO., LTD., DONGSOO LEE, and DOES 1-10,
inclusive.

Defendants.

Plaintiff has submitted a proposed protective order. [Docket No. 61] Defendants accept the terms of plaintiff's proposed order with two caveats:

1. Para. 2.12: Defendants request that the sentence reading "Such Foreign Counsel may only use a Disclosing Party's Materials, however designated, for this litigation" be deleted.
2. Para. 7.1: Defendants request that the sentence "A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a non-party in connection with this case only for prosecuting, defending, or attempting to settle this litigation" be revised to add, "or other proceedings arising out of the same nucleus of operative facts."

Plaintiff's proposed language for ¶ 7.1 comports with the standard protective order provided as a model for litigants in the Northern District; plaintiff's proposed language ¶ 2.12 is an addition to the standard form. Defendants' proposed changes to the protective order relate to their contention that they should not be precluded from using documents produced under a protective order in this case in other litigation.

Federal Rule of Civil Procedure 26(c)(G) provides that courts may enter a protective order "requiring that a trade secret or other confidential research, development, or commercial information

1 not be revealed or be revealed only in a specified way.” In this case, plaintiff requests that “only a small
2 amount” of discoverable information, such as sales figures, profit margins, customer preferences, and
3 proprietary product specifications be placed under the protective order. *See* Pl. Letter Brief, at 3. The
4 Court finds that this information is qualifies as confidential commercial information for the purposes
5 of Rule 26(c)(G). The Court will not be able to ensure that the terms of the protective order are
6 observed if defendants use this information in other litigation in a forum outside this Court’s
7 jurisdiction. In addition, defendants provide no justification for deviating from the practice of the
8 Northern District and reserving the right to use confidential documents produced in this matter in other
9 litigation.

10 Accordingly, the Court finds that defendants’ changes to the proposed stipulation are not
11 warranted. The Court will enter the protective order offered by plaintiffs without amendment.

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13 **IT IS SO ORDERED.**

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15 Dated: 11/26/08

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18 SUSAN ILLSTON
19 United States District Judge
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